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No. 318, 319 & 320.

Office Supreme Court U.S.
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MAR 12 1900
JAMES H. McKENNEY,
Clerk.

MISSISSIPPI TAX CASES.

Motion to Advance.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1899.

Filed Mar. 12, 1900.

ILLINOIS CENTRAL RAILROAD COMPANY, *Appellant*, *v.* WIRT ADAMS, State Revenue Agent, *et al.*	No. 318.
ILLINOIS CENTRAL RAILROAD COMPANY, *Appellant*, *v.* WIRT ADAMS, State Revenue Agent, *et al.*	No. 319.
YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY, *Appellant*, *v.* WIRT ADAMS, State Revenue Agent, *et al.*	No. 320.
YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY, *Plaintiff in Error*, *v.* WIRT ADAMS, State Revenue Agent.	No. 324.

MOTIONS TO ADVANCE AND NOTICE THEREOF.

WILLIAM D. GUTHRIE,
JAMES FENTRESS,
EDWARD MAYES,
Of counsel for appellants and plaintiff in error.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1899.

ILLINOIS CENTRAL RAILROAD COMPANY, *Appellant*, v. WIRT ADAMS, State Revenue Agent, *et al.*	No. 318.
ILLINOIS CENTRAL RAILROAD COMPANY, *Appellant*, v. WIRT ADAMS, State Revenue Agent, *et al.*	No. 319.
YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY, *Appellant*, v. WIRT ADAMS, State Revenue Agent, *et al.*	No. 320.
YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY, *Plaintiff in Error*, v. WIRT ADAMS, State Revenue Agent.	No. 324.

NOTICE OF MOTIONS TO ADVANCE FOR HEARING AFTER YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY ET AL., V. WIRT ADAMS, STATE REVENUE AGENT (No. 244).

Notice is hereby given that, upon the records in the above entitled cases in this court, the annexed motions to advance the same and set them down for hearing after *Yazoo & Mississippi Valley Railroad Company et al.*, v. *Wirt Adams, State Revenue Agent* (No. 244), will be pre-

sented and submitted to the Supreme Court of the United States at the Capitol in the City of Washington, on Monday, the 12th day of March, 1900, at the opening of court on that day, or as soon thereafter as counsel can be heard.

WILLIAM D. GUTHRIE,
JAMES FENTRESS,
EDWARD MAYES,

Of counsel for appellants and plaintiff in error.

To

MARCELLUS GREEN, ESQ., and
R. C. BECKETT, ESQ.,

Of counsel for appellees and defendant in error.

IN THE

Supreme Court of the United States.

OCTOBER TERM, 1899.

ILLINOIS CENTRAL RAILROAD COMPANY, *Appellant*, v. WIRT ADAMS, State Revenue Agent, *et al.*	No. 318.
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YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY, *Plaintiff in Error*, v. WIRT ADAMS, State Revenue Agent.	No. 324.

MOTIONS TO ADVANCE FOR HEARING AFTER YAZOO AND MISSISSIPPI VALLEY RAILROAD COMPANY ET AL., V. WIRT ADAMS, STATE REVENUE AGENT, (No. 244).

The above-entitled cases involve different phases of the alleged liability to taxation of the Illinois Central and Yazoo and Mississippi Valley Railroad Companies under certain charters and legislation of the State of Mississippi.

The writ of error in No. 244 brings up for review a judgment of the Supreme Court of that State for $548,676 taxes and $27,433 penalty, and involves the constitutionality of state legislation enacted in the years 1886, 1892 and 1894, which the plaintiffs in error contend impairs the contract obligations of the charters of certain railroad companies now merged in the Yazoo and Mississippi Valley Railroad Company. A motion to dismiss or affirm was postponed until the hearing upon the merits, and a motion to advance has been denied at this term.

Nos. 318, 319 and 320 are appeals from the Circuit Court of the United States for the Southern District of Mississippi, and at present merely involve the jurisdiction of the Circuit Court in these cases, that question alone having been certified under section five of the act of March 3, 1891, (26 Stat. 826). The inquiry is whether the subject matter of the causes was within the jurisdiction of the federal court, and also whether the suits were in violation of the Eleventh Amendment to the Federal Constitution.

No. 318 was begun by the filing of a bill in equity by the Illinois Central Railroad Company for the purpose of restraining the levy and collection of taxes for the years 1886 to 1897 alleged to be in violation of the charter of the Canton, Aberdeen and Nashville Railroad Company, which granted an absolute exemption for a term of twenty years, differing in this respect from the charter involved in No. 244, which provides for an appropriation and application of taxes to the payment of construction debt. A motion to dismiss or affirm in this case has also been postponed.

No. 319 was begun by the filing of a bill in equity by the Illinois Central Railroad Company to restrain the

assessment and collection of taxes alleged to be in violation of the charter of the Natchez, Jackson and Columbus Railroad Company for the years 1886 to 1891, and involves the same question of the validity of the provision for the appropriation and application of taxes to the payment of construction debt as is presented in No. 244.

No. 320 is a suit by the Yazoo and Mississippi Valley Railroad Company to restrain the collection of taxes and to set aside levies thereof alleged to be in violation of its charter and of that of the Natchez, Jackson and Columbus Railroad Company, which question involves the rights of the Yazoo and Mississippi Valley Railroad Company under a provision in the charter of the Louisville, New Orleans and Texas Railway Company respecting the appropriation and application of taxes similar to that involved in No. 244. A motion to dismiss or affirm in this case has also been postponed.

No. 324 involves the construction of a part of the same legislative charter that was before the court in *Yazoo Railroad Company* v. *Thomas*, 132 U. S. 174, 184, the question being whether the exemption from municipal taxation contained in the last clause of section 8 of the original charter of the Yazoo and Mississippi Valley Railroad Company is absolute, or whether it is conditioned upon the completion of the railroad to the Mississippi River. The court held in the case cited that as to state and county taxation the exemption was so conditioned; and the present writ of error presents a somewhat limited question of statutory construction. A motion to dismiss or affirm in this case has also been postponed.

It will thus be seen that the records in these five cases present in varying forms the validity of claims to ex-

emption or to appropriation of taxes in payment of construction debt, arising under three distinct classes of legislation: *First*, that providing for the appropriation and application of taxes of railroad companies to the payment of construction debt; *second*, the absolute exemption from taxation contained in the charter of the Canton, Aberdeen and Nashville Railroad Company; *third*, the alleged liability to municipal taxation under the original charter of the Yazoo and Mississippi Valley Railroad Company, as distinguished from state and county taxation.

These questions, while so far differing in substance as to require separate oral argument and independent briefs, are yet so united on account of the identity of parties and the general character of the constitutional and statutory questions involved, as in the opinion of the subscribers to justify these motions to advance the four cases appearing later upon the calendar and to set them down for hearing immediately after argument has been had in No. 244. It is conceived that this manner of hearing the cases will lighten the labors of the court, by facilitating a clearer view of the distinction between the issues involved in the several suits than if the cases should be left to be heard at intervals from each other. But it is believed that if they should be argued together it would tend to confusion and to the risk of overlooking the distinctions between the cases.

The amounts involved in the whole litigation, which may possibly be terminated by the judgments in these cases, are very large, aggregating upwards of $1,200,000. The questions presented are also deemed to be novel and important, this court never before having been asked to determine them.

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Altogether, the circumstances seem to be so special and peculiar as to warrant the application now made.

WASHINGTON, March 12, 1900.

WILLIAM D. GUTHRIE,
JAMES FENTRESS,
EDWARD MAYES,

Of counsel for appellants and plaintiffs in error.